

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION

CAROLYN J. O'LEARY, individually  
and on behalf of all other similarly  
situated individuals,

Plaintiff,

v.

Case No. 1:17-cv-01774-WCG

HUMANA INSURANCE COMPANY and  
HUMANA INC.,

Defendants.

**MOTION FOR APPROVAL OF  
JOINT STIPULATION REGARDING CONDITIONAL  
CERTIFICATION AND NOTICE TO PUTATIVE MEMBERS OF COLLECTIVE**

Plaintiff O'Leary, on behalf of herself and all others similarly situated, and Defendants Humana Insurance Company and Humana Inc. (collectively "the "Parties") hereby file this joint stipulation regarding conditional certification and jointly request the Court to approve such stipulation.

1. Plaintiff brought this case as a collective action against Defendants. Defendants deny that they have violated the FLSA. However, to efficiently manage this case, the Parties have reached the following agreements. The Parties have agreed that this case should be conditionally certified as a collective action under Section 16(b) of the Fair Labor Standards Act. The Parties have agreed to allow notice to be sent to all current and former employees of Defendants that fall within the class definition below:

All persons who were classified as exempt under the FLSA and worked as clinical nurse advisors for Defendants in the roles of Clinical Intake, Clinical Claims Review, Clinical Claims Review – DME, Acute Case Managers, or Market Clinical

– Senior Products utilization management nurses, at any time within the three years prior to the date the Court approves this Stipulation.<sup>1</sup>

2. Further, the Parties have conferred and reached agreement regarding the form of notice to be sent to the class members and the consent form to be filed. Attached hereto as Exhibit A is the notice of rights to the class members and the consent form. The Parties agree that these documents are timely, accurate, and informative.

3. Defendants reserve the right to later argue that Plaintiff and any opt-in Plaintiff are not “similarly situated” under applicable law, and to seek decertification from the Court on any grounds they deem appropriate.

4. The Parties stipulate that Elizabeth J. Eberle of Miner, Barnhill & Galland, P.C. shall serve as class counsel and that Carolyn J. O’Leary shall serve as the representative for the opt-in plaintiffs.

5. The Parties stipulate that within fourteen (14) days of the Court approving this stipulation by signing below, Defendants shall provide to Plaintiff’s counsel the names, dates of employment within the defined positions, and home address, for all Putative Members of the Collective as defined above. Defendants shall provide such information in a computer-readable format, such as a Microsoft Excel Spreadsheet. Additionally, in the event that any notices are returned as undeliverable, Defendants shall provide the dates of birth for those individuals so that Plaintiff can perform a skip trace.

6. The Parties stipulate that Plaintiff’s counsel shall mail a copy of the agreed Notice of Rights and agreed Consent Form via first class mail to all persons contained on the list within fourteen (14) days of receiving the list from Defendants. Plaintiff’s counsel may hire a class action

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<sup>1</sup> Excluded from this collective definition are those individuals who were mailed notices and consents to opt-in in October 2017 in an FLSA collective action styled *Killebrew v. Humana Inc.*, Civil Action No. 5:16-cv-01276 (W.D. TX, San Antonio Div.).

administration company to oversee the mailing of the notice and forms, at Plaintiff's expense. Plaintiff's counsel will not otherwise initiate communication with Putative Members of the Collective unless authorized by the Court. However, this shall not restrict Plaintiff's counsel from responding to inquiries initiated by Putative Members.

7. It is further stipulated that Defendants will not communicate, directly or indirectly, with any putative Member of the Collective Action about settlement of any outstanding wage claims related to this suit during the opt-in period.

Dated \_\_\_\_\_

\_\_\_\_\_  
William C. Griesbach, Chief Judge, USDC

AGREED TO AS TO FORM AND CONTENT

MINER, BARNHILL & GALLAND, P.C.

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